

## Text of Proposed Regulations

In the following text, underlining indicates adopted or amended text; and strikethrough indicates deleted text.

### 3000. Definitions.

#### Section 3000 is amended to read:

The definition below is alphabetically merged in the regulations and is adopted to read:

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Indecent Exposure means every person who willfully and lewdly, either: exposes his or her person, or the private parts thereof, in any public place, or in any place where there are present other persons to be offended or annoyed thereby; or, procures, counsels, or assists any person so to expose him or her self or take part in any model artist exhibition, or to make any other exhibition of him or her self to public view, or the view of any number of persons, such as is offensive to decency, or is adapted to excite to vicious or lewd thoughts or acts.

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Sexual Disorderly Conduct means every person who touches, without exposing, his or her genitals, buttocks or breasts in a manner that demonstrates it is for the purpose of sexual arousal, gratification, annoyance, or offense, and that any reasonable person would consider this conduct offensive.

NOTE: Authority cited: Sections 2717.3, 5058, and 5058.3, Penal Code; Section 10115.3(b), Public Contract Code; and Section 4525(a), 4526 and 14837, Government Code. Reference: Sections 186.22, 243, 314, 530, 532, 646.9, 653m, 832.5, 1389, 2080, 2081.5, 2600, 2601, 2700, 2717.1, 2717.6, 2932.5, 4570, 5009, 5054, 5068, and 7000 et seq., Penal Code; Sections 1132.4 and 1132.8, Labor Code; Sections 10106, 10108, 10108.5, 10115, 10115.1, 10115.2, 10115.3, and 10127, Public Contract Code; and Section 999, Military and Veterans Code; Section 391, Code of Civil Procedure; *In re*

*Bittaker*, 55 Ca.App. 4th 1004, 64 Cal.Rptr. 2d 679; and Section 11007, Health and Safety Code.

**3315. Serious Rule Violations.**

**Subsections 3315(a) through (e) are unchanged.**

(f) Disposition. Upon completion of the fact-finding portion of the disciplinary hearing, the inmate may be found:

**Subsection 3315(f)(1) through (f)(5)(K) is unchanged.**

(5) The disposition may or when mandated shall include assessment of one or more of the following:

**New subsection 3315(f)(5)(L), (L) 1 and (L)2 is adopted to read:**

(L) Violation of Indecent Exposure or Sexual Disorderly Conduct of sections 3007, 3323(d)(7), 3323(f)(5), and 3323(g)(8) shall result in:

1. First offense violation shall result in loss of any or all of the following for up to 90 days: canteen, appliances, vendor packages, telephone privileges, and personal property.

2. Second offense and subsequent offense violation(s) shall result in loss of any or all of the following for up to 180 days: canteen, appliances, vendor packages, telephone privileges, and personal property.

**Subsection 3315(g) is unchanged.**

**The Note Section is amended to read:**

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 295–300.3, 314, 530, 532, 646.9, 647, 653m, 2931, 2932, 2933, 4573.6, 5054, 5068 and 12020, Penal Code.

### **3323. Disciplinary Credit Forfeiture Schedule.**

**Subsections 3323(a) through 3323(d)(6) are unchanged.**

**New subsection 3323(d)(7) is adopted to read:**

(7) Indecent Exposure with prior court conviction under PC 314 or PC 288.

**Existing subsection 3323(d)(7) through 3323(d)(8) are renumbered to 3323(d)(8) through 3323(d)(9) respectively, and is unchanged.**

(78) Any felony not involving violence or the use of a weapon not listed in this schedule.

(89) Conspiracy to commit any Division “B” offense.

**Subsections 3323(e) through 3323(f)(4) are unchanged.**

**Subsection 3323(f)(5) is amended to read:**

(5) Indecent Exposure without a prior court conviction under PC 314 or PC 288.

**Subsections 3323(f)(6) through 3323(g)(7) are unchanged.**

**New subsection 3323(g)(8) is adopted to read:**

(8) Sexual Disorderly Conduct.

**Existing subsection 3323(g)(8) through 3323(g)(9) is renumbered to 3323(g)(9) through 3323(g)(10) respectively, and is unchanged.**

(89) Commission of any misdemeanor offense not listed in this schedule and not specified as administrative in section 3314.

(910) Conspiracy to commit any Division “E” offense.

**Subsections 3323(h) through 3323(k) are unchanged.**

**The Note Section is amended to read:**

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 148, 243, 295–300.3, 314, 647, 2932, 2933, 4573.6, 4600, 5054 and 12020, Penal Code.

### **3341.5. Segregated Program Housing Units.**

**Subsections 3341.5 (a) through (c)(9)(J) are unchanged.**

(9) SHU Term Assessment Chart (fixing of determinate confinement to SHU).

<i>OFFENSE</i>	<i>TYPICAL TERM (Mos)</i>		
	<i>Low</i>	<i>Expected</i>	<i>High</i>
(A) Homicide:			
1. Murder, attempted murder, solicitation of murder, or voluntary manslaughter of a non-inmate.	(36	48	60)
2. Murder, attempted murder, solicitation of murder, or voluntary manslaughter of an inmate.	(15	26	36)
(B) Violence Against Persons:			
1. Assault on a non-inmate with a weapon or physical force capable of causing mortal or serious injury.	(09	28	48)
2. Assault on an inmate with a weapon or physical force capable of causing mortal or serious injury.	(06	15	24)
3. Assault on a non-inmate with physical force insufficient to cause serious injury.	(06	12	18)
4. Assault on an inmate with physical force insufficient to cause serious injury.	(02	03	06)
5. Throwing a caustic substance on a non-inmate.	(02	03	04)
(C) Threat to Kill or Assault Persons:			
1. Use of non-inmate as hostage.	(18	27	36)
2. Threat to a non-inmate.	(02	05	09)
3. Threat to an inmate.	(02	03	04)
(D) Possession of a Weapon:			
1. Possession of a firearm or explosive device.	(18	27	36)
2. Possession of a weapon, other than a firearm or explosive device which has been manufactured or modified so as to have the obvious intent or capability of inflicting traumatic injury, and which is under the immediate or identifiable control of the inmate.	(06	10	15)
(E) Trafficking in Drugs:			
Distributing controlled substances in an institution or camp or causing controlled substances to be brought into an institution or camp for the purpose of distribution.	(06	09	12)
(F) Escape With Force or Attempted Escape with Force.	(09	16	24)
(G) Disturbance, Riot, or Strike:			
1. Leading a disturbance, riot, or strike.	(06	12	18)
2. Active participation in, or attempting to cause conditions likely to threaten institution security.	(02	04	06)
(H) Harassment of another person, group, or entity either directly or indirectly through the use of the mail or other means.			
	(06	12	18)
(I) Arson, Theft, Destruction of Property: Theft or			

- destruction of State property where the loss or potential loss exceeds \$10,000 or threatens the safety of others. (02 08 12)
- (J) Extortion and Bribery: extortion or bribery of a non-inmate. (02 06 09)

**New subsection 3341.5(c)(9)(K) is adopted to read:**

(K) Sexual Misconduct

1. Indecent Exposure (3 06 09)
2. Sexual Disorderly Conduct (two or more offenses within a twelve month period) (3 06 09)

**Existing subsection 3341.5(c)(9)(K) through 3341.5(c)(9)(L) is renumbered to 3341.5(c)(9)(L) through 3341.5(c)(9)(M) respectively and is unchanged.**

- ~~(L)~~ Except as otherwise specified in this section, proven attempts to commit any of the above listed offenses shall receive one-half (1/2) of the term specified for that offense.
- ~~(M)~~ Any inmate who conspires to commit any of the offenses above shall receive the term specified for that offense.

**Subsection 3341.5(c)(10) through 3341.5(c)(10)(B) is unchanged.**

**The Note Section is amended to read:**

NOTE: Authority cited: Section 5058, Penal Code. Reference: Sections 314, 5054 and 5068, Penal Code; *Sandin v. Connor* (1995) 515 U.S. 472; *Madrid v. Gomez* (N.D. Cal. 1995) 889 F.Supp. 1146; *Toussaint v. McCarthy* (9th Cir. 1990) 926 F.2d 800; *Toussaint v. Yockey* (9th Cir. 1984) 722 F.2d 1490; and *Castillo v. Alameida, et al.*, (N.D. Cal., No. C94-2847).